

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Atty. Docket: YAYON=4

In re Application of: ) Conf. No.: 2798  
Avner YAYON et al )  
IA. No. PCT/IL99/00602 )  
Appln. No.: 09/831,305 )  
IA Filing Date: 08 Nov 1999 ) Washington, D.C.  
Nat'l Filing Date: Not yet )  
received )  
For: PHARMACEUTICAL COMPOSITION) July 8, 2002  
COMPRISING PORPHYRINS AND )  
SOME NOVEL PORPHYRIN ... )  
ATTN: PETITIONS

PETITION TO VACATE HOLDING OF ABANDONMENT

Honorable Commissioner for Patents  
Washington, D.C. 20231

Sir:

Applicants are in receipt of a PTO-Form-1432 entitled "Notice of Abandonment", mailed May 31, 2002, which erroneously states that the present application is abandoned because of applicants' failure to respond to the "Notice to File Missing Parts (Notice)" (actually "Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US)") mailed on June 15, 2001.

It is respectfully requested that such holding of abandonment be vacated as being erroneous, that the present application be reinstated, and that it be returned to the appropriate office to complete initial processing.

THE FACTS

Applicants received Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US), mailed June 15, 2001, on June 19, 2001. On July 18, 2001, applicants filed a "Late Submission of Declaration and/or Translation in Application filed under 35 U.S.C. §371", which included two executed oaths or declarations; an Information Disclosure Statement with SB/08A and 25 references; and a second preliminary amendment. A copy of the postcard acknowledging receipt by the PTO is attached hereto.

As these papers have apparently been lost in the PTO, freshly resigned duplicate copies of these submissions are attached.

REMARKS

As it is clear from the above-noted postcard receipts that applicants did, indeed, timely respond to the Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) mailed June 15, 2001, the Notice of Abandonment is erroneous and should be withdrawn (vacated). In this regard, the postcards by themselves should be sufficient evidence, as MPEP §503 states:

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date sampled thereon by the USPTO.

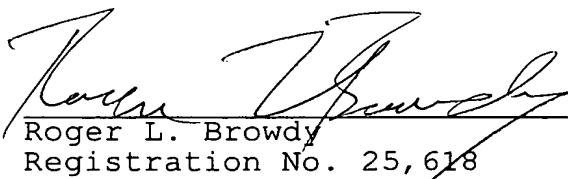
Accordingly, it is requested that the abandonment of the present application be removed, the notice of abandonment be vacated, and the present application be reinstated and returned to the appropriate office to complete initial processing.

It is believed that no petition fee is required as this petition was necessitated as a result of an erroneous action of the PTO. Nevertheless, if any fee is deemed necessary for consideration of the present petition, please charge same to deposit account number 02-4035 of the undersigned.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.  
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By

  
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